

REMARKS

The Office Action of October 20, 2009 and the references cited therein have been carefully reviewed. Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. Claim Status and Amendments

Applicants appreciate the examiner's withdrawal of the restriction requirement and the election of species requirement.

Claims 1-23 were pending in this application when last examined.

Claims 1-3, 8-12, 19, and 21-23 are rejected.

Claims 4-7, 13-18, and 20 are objected to for depending on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. See item 10 on page 4 of the Office Action. Applicants appreciate the Examiner's indication of allowable subject matter.

By way of the present amendment, Applicants have amended claim 1 in a non-narrowing manner to clarify the definition of R². Support can be found in the claims as filed.

Claims 19 and 20 have been amended to clarify that "L represents a fluorine atom, a bromine atom, or an iodine atom ...". Support can be found in the disclosure, for example, at paragraph

[0082] of the published application, i.e. patent application publication no. 20070185160.

Claim 16 has been amended to correct a grammatical error.

Claims 22 and 23 have been cancelled without prejudice or disclaimer thereto. Applicants reserve the right to file a continuation or divisional application on any cancelled subject matter.

Claims 1-21 are pending upon entry of this amendment, and these claims define patentable subject matter warranting their allowance for the reasons discussed herein.

II. Indefiniteness Rejection

Claims 1 and 8-12 have been rejected under 35 USC 112, second paragraph, as being indefinite for the reasons in item 5 on pages 2-3 of the Office Action.

This rejection is overcome, as applied to the amended claims, for reasons which are self-evident.

In reply to items A and B, Applicants have amended claim 1 to make it clear that R² also represents -COOR³, -COR⁴, -COSR⁵, -CONR⁶R⁷, -NR²²R²³, or -N=CR²⁴R²⁵. It is believed that this amendment overcomes the objections items A and B.

Further, the objection in item C is rendered moot by the cancellation of claims 22 and 23.

The claims are thus clear, definite and have full antecedent basis.

This rejection is believed to be overcome, and withdrawal thereof is respectfully requested.

III. Anticipation Rejections

Behrens

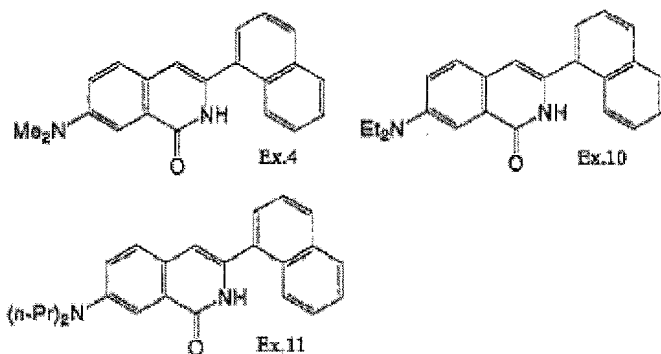
Claims 1-3 and 21-23 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Behrens (US 4,942,163) for the reasons set forth in item 7 on pages 3-4 of the Office Action. This rejection is respectfully traversed.

It is well established that to anticipate a claim, a cited prior art reference must disclose or suggest each and every element of the claims. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); and M.P.E.P., Eighth Ed., August 2001 (Revision July 2008) at § 2131.

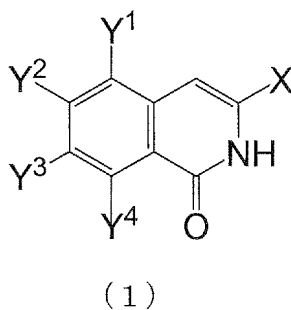
The rejection should fall, because Behrens fails to disclose each and every element of independent claim 1. It should be noted that claim 21 depends on claim 1, and claims 22 and 23 have been cancelled without prejudice or disclaimer thereto.

In making the rejection, the examiner states that the instantly claimed compounds are disclosed in Examples 4, 10 and 11, as disclosed in Table 1 of Behrens.

Applicants respectfully disagree. The compounds of Examples 4, 10 and 11 are represented as follows:



By contrast, in the amended claims, the compound recited in main claim 1 is represented by the formula (1):



wherein either one of Y² and Y³ represents -NR¹R², and the other represents a hydrogen atom or a halogen atom; and R² represents a C₁₋₈ alkyl group substituted with one or more substituents selected from Group B; or R² represents -COOR³, -COR⁴, -COSR⁵, -CONR⁶R⁷, -NR²²R²³, or -N=CR⁴⁴R²⁵; or R¹ and R², together with a nitrogen atom to which they are bonded, may form a 4- to 10-membered hetero ring containing at least one nitrogen atom.

As such, the definition of $-NR^1R^2$ in claim 1 does not include a dialkylamino group such as $-NMe_2$, $-NEt_2$ or $-N(n-Pr)_2$ that has no substituent in the alkyl group. Therefore, it is clear that the compounds of Examples 4, 10 and 11 as well as any compounds disclosed in Behrens are not the compounds claimed in the subject application.

For these reasons, Behrens cannot be said to teach each and every element of claim 1. Thus, claim 1 and all claims dependent thereon are novel over Behrens. Withdrawal of the rejection is requested.

Izumi et al.

Claim 19 has been rejected under 35 U.S.C. § 102(b) as being anticipated by (Journal of Heterocyclic Chemistry (1994), 31(1), pages 145-152; i.e., Reference U, cited by the examiner) for the reasons set forth in item 8 on page 4. This rejection is respectfully traversed.

In making the rejection, the examiner rejects claim 19 over Izumi et al. (Journal of Heterocyclic Chemistry (1994), 31(1), pages 145-152), particularly referring to compound 6 on page 147, Figure 5 of the Izumi et al.

The present amendment overcomes this rejection. In particular, claim 19 has been amended to clarify that "L represents a fluorine atom, a bromine atom, or an iodine atom ..." to thereby exclude a chlorine atom therefrom. Thus, it is

believed that the compound disclosed in the Izumi et al. is not included in the scope of amended claim 19. Accordingly, the present amendment obviates the rejection, and thus the rejection should be withdrawn.

IV. Claim Objections

Claims 4-7, 13-18, and 20 stand objected to for depending on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. See item 10 on page 4 of the Office Action. Applicants appreciate the Examiner's indication of allowable subject matter. It is believed that the present amendment overcomes the rejections for the reasons noted above, and thereby renders this objection moot. Withdrawal of the objection is requested.

V. Information Disclosure Statement

Applicants have discovered several inadvertent, clerical errors in the Information Disclosure Statement (IDS) submitted on November 3, 2009. In the title of FUJIO et al. (citation number 1), the phrase "2B-quinazilin-4-one derivatives" should read "3H-quinazilin-4-one derivatives." Also, the date of the Supplementary European Search Report in the citations 1 and 2

to FUJIO et al. and HATTORI et al., respectively, should be
"September 16, 2009" and not "September 9, 2009".

To clarify the record and to ensure that the correct information is listed on the face of a patent issuing from the instant application, Applicants are enclosing a corrected copy of the November 3, 2009 IDS that contains the noted corrections. Please replace the PTO/SB/08a (1449) submitted on November 3, 2009 with the enclosed clean copy of the IDS Form PTO/SB/08a (1449). Please also return an examiner-initialed copy of the corrected IDS form.

VI. Conclusion

Having addressed all the outstanding issues, this paper is believed to be fully responsive to the Office Action. It is respectfully submitted that the claims are in condition for allowance, and favorable action thereon is requested.

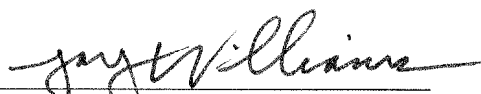
Appln. No. 10/588,611
Amdt. dated January 19, 2010
Reply to Office Action of October 20, 2009

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

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